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on shrinking civil space

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by
Ökotárs – Hungarian Environmental Partnership Foundation

Amnesty International Hungary
Hungarian Civil Liberties Union
Hungarian Helsinki Committee
Power of Humanity Foundation

Ökotárs – Hungarian Environmental Partnership Foundation is an independent, not-for-profit and non-partisan organization that aims at contributing to the development of a democratic, sustainable and equitable society and an institutional system based on citizen participation, through providing grants, training, mentoring and technical assistance where necessary. During its 30-year history, Ökotárs managed a variety of grant programs supported by private, governmental and institutional donors, and thus became one of the leading foundations in Hungary. The foundation has built broad knowledge and overview of civil society, accumulated through giving grants and providing technical assistance to more than 2000 CSOs and communities.

Hungarian Civil Liberties Union is a human rights organization, which has been working since its foundation in 1994, for everybody being informed about their fundamental human rights and empowered to enforce it against the undue interference by those in position of public power. HCLU monitors legislation, pursues strategic litigation, provides free legal aid assistance in more than 2500 cases per year, provides trainings and launches awareness raising media campaigns in order to mobilize the public.

Hungarian Helsinki Committee is an independent human rights watchdog organisation founded in 1989 in Budapest, Hungary. As a leading Hungarian human rights organisation with a globally recognised reputation, the HHC works towards a world in which everyone's human rights are protected. The HHC focuses on defending the rule of law and a strong civil society in a shrinking democratic space; the right to seek asylum and access protection; the rights to be free from torture and inhuman treatment and the right to fairness in the criminal justice system. The HHC contributes to monitoring Hungary's compliance with relevant UN, EU, Council of Europe, and OSCE human rights standards and cooperates with international human rights fora and mechanisms.

Amnesty International Hungary is a membership-based, independent Hungarian civil society organization founded in 1990. Amnesty Hungary is the Hungarian section of the globe's largest human rights organization, Amnesty International which has 10 million supporters in more than 70 countries. The organization carries out research, campaigns, advocacy, human rights education, and empowers and mobilizes local communities with a special focus on gender equality and rule of law to ensure that human rights are enjoyed by everyone in Hungary.

The Power of Humanity Foundation is an independent, Hungarian CSO based in Pécs. The Foundation's mission is to play a role in building a democratic society that is livable to all. To this end, the organization focuses on strengthening social inclusion by supporting oppressed, discriminated groups and sensitizing the majority by implementing (human rights) education programs and strengthening the civil society in the South Transdanubian Region.

Introduction

According to the latest official data released by the Central Statistical Office¹, in 2019 a little less than 61,000 nonprofit organizations operated in Hungary, of which 34,000 were associations, 19,000 foundations and the remaining 8000 other types of organizations (non-profit companies, chambers, etc.). Over the past 5 years, the total number slightly decreased by about 1,200 entities. Civil society organizations (CSOs, associations and foundations) pursuing cultural, sports, and leisure activities are the most prominent, each accounting for 15-16 percent of the total, while 13 percent of CSOs focus on education and 9 percent on providing social services. Only about 500 organizations are engaged in the fields of human and fundamental rights. App. 20 percent of all CSOs have public benefit status².

Following the years after the transition in 1989-90, Hungarian civil society grew and developed rapidly, however, after the turn of the millennium, this progress slowed down, as the sector became stabilized, or, as it may be argued, stagnating by the mid-2000's. More recently, however, the trend of shrinking civil space became apparent. Hungarian CSOs have been operating in an increasingly hostile environment for the past 7-8 years, as shown – among others by the downward trend of the USAID CSO Sustainability Index³ in all aspects, including its legal environment, financial viability and advocacy. CIVICUS Monitor⁴ now ranks civil space in Hungary as “obstructed”. Several factors contribute to this:

1. the funding structures
2. the Government's and state authorities' lack of engagement with CSOs
3. the vilification and stigmatization of CSOs
4. the targeted harassment of certain CSOs
5. the restrictive legal amendments adopted in the past years as described below.

1) Funding

Again, according to official statistics, the total income of associations and foundations in 2019 was 900 billion HUF (€ 2.6 billion) with 8 percent increase compared to 2018. Around 41 percent of this total comes from public funding sources; 23 percent from private ones, including international donors; 26 percent from CSOs' own income, including membership fees; and 8 percent from business activities. However, this income is very unevenly distributed across the sector, with more than 70 percent of all CSOs operating on an annual budget less than 5 million HUF (~\$16,670), and only 7% having an annual income over 50 million HUF (~\$166,700).

While public funding constitutes an important share of CSOs income, the distribution and award of such funds in the last decade has been shown to lack transparency and be politically biased against independent organizations. Information on funding provided by various chapters of the public administration is scattered around the agencies, difficult to find and to compare in the absence of a central, coordinated database.

The key state funding program supporting the general operation of CSOs, the National Cooperation Fund (NCF) distributed HUF 7.7 billion (app. \$26.5 million) in 2020, and HUF 5.5 billion (app. \$18.3 million) in 2019, and using this amount provided small grants to 8 to 12,000 organizations annually. However, decision-making in the NCF is strongly dominated by the

¹ https://www.ksh.hu/stadat_eves_3_2

² According to Hungarian legislation, CSOs active for more than two years that contribute – directly or indirectly – to public tasks, thereby fulfilling the individual and common needs of society are eligible to receive public benefit status. PBOs receive some tax benefits, but must meet more rigorous transparency criteria.

³ <https://csosi.org/?region=EUROPE>

⁴ <https://monitor.civicus.org/country/hungary/>

national government: two-thirds of the members of its bodies (the so-called colleges and the NCF council) are appointed by the government – replacing the earlier system in effect before 2012 where the majority of the members were elected CSO representatives. The first chairman of the NCF Council (between 2013 and 2016) was the leader of the so-called Civil Cooperation Forum, an organization known for its outspoken support to the government and as an organizer of the ‘Peace Marches’⁵, while the current chairwoman is a vice-president of the State Treasury. While the [NCF website](#)⁶ is not quite user-friendly and it is rather difficult to find aggregated data on the grants, investigative journalists⁷ have earlier shown how NCF funding is biased towards organizations founded and/or led by local functionaries of the leading government party (while there is no newer systematic data available, anecdotic evidence shows that this situation has not changed over the years). At the same time, organizations engaged in politically sensitive areas such as human rights, gender, LGBTI issues, anti-corruption, etc., while not expressly barred from applying for support, report that their proposals are regularly rejected. CSOs are usually not eligible to be the primary applicants for EU Structural Fund⁸ grants which are distributed by the government, but can only participate as partners of municipalities, churches, or state bodies – experience shows that only ‘loyal’ organizations (i.e. not critical of government policies) are usually included in such consortia.

In 2020, while CSOs were at the forefront of providing support to social groups most affected by the crisis stemming from the coronavirus pandemic (by providing food aid, supporting digital education, disseminating information and legal aid, among others), the government opened no additional funding sources to civil society. On the contrary, some existing sources were cut back and – despite promising government statements – CSOs were even left out of the furlough (‘kurzarbeit’⁹) schemes designed to help retain employees through the lockdown.

Under these circumstances, independent CSOs, especially rights-based ones are still strongly dependent on international philanthropic and institutional donors – which are vilified and stigmatized by the government (see below).

Recommendations:

- *Guarantee impartial and independent decision-making and management of state funding programs to civil society involving elected CSO representatives*
- *Improve the transparency of decision-making and information on state funding sources, including coordinated, searchable and re-usable online databases*
- *Allocate public funding specifically targeting human rights, gender, LGBTI and anti-corruption CSOs awarded in an open and competitive process*

2) Advocacy & civic dialogue

The traditional channels of CSO advocacy – both formal (such as consultative bodies and processes) and informal (petitions and signature collections) – ceased functioning years ago. While legislation provides for public participation in lawmaking¹⁰, in practice decisions are often made behind closed doors, without any involvement by the affected stakeholders. Public consultation is

⁵ See for example: <https://www.voanews.com/europe/massive-peace-march-hungary-backing-viktor-orban>

⁶ <https://civil.info.hu/nea/kezdolap/bemutakozas/index.html>

⁷ e.g. <https://atlatzo.hu/2012/12/07/deutsch-tarlos-tokes-es-pozsgay-a-legmenobb-civilek/>
<https://atlatzo.hu/2012/10/22/itt-a-civil-tamogatasok-listaja-a-kormany-mellett-demonstralni-meno/>

⁸ EU Structural Funds is a collective term for the development support provided by the European Union to its Member States. In the 2014-2020 budget cycle, Hungary was allocated a total of app. 26,6 billion USD.

⁹ See a short description of Germany’s state-sponsored work-sharing scheme aimed at saving jobs:

<https://www.imf.org/en/News/Articles/2020/06/11/na061120-kurzarbeit-germanys-short-time-work-benefit>

¹⁰ Act CXXXI of 2010 on Public Participation in the Preparation of Legislation, Articles 1 and 8(1)-(2)

obligatory in case of laws prepared by ministers, and should involve publishing the bills online before they are submitted to the Parliament for the public to comment on them. The governing majority has regularly circumvented this rule by submitting significant bills by governing party MPs or parliamentary committees (e.g. the Bill on the Constitutional Court). E.g. in November 2020, the Minister of Justice submitted to the Parliament a bill to amend the Fundamental Law, the constitution of Hungary without subjecting it to prior public consultation.¹¹ In 2020, the Parliament adopted 159 government-submitted laws.¹² Of these, only one was published for commenting on the government's dedicated webpage (in addition 4 government decrees or regulations).¹³ By law, comments should also be published, with the reasons for rejecting them¹⁴, but in reality, this never happens.

Targeted consultation with affected stakeholders is not without problems either, as they are often given only a very short timeframe to submit their comments: e.g. a trade union was asked by a ministry on 9 April 2020 to comment by 14 April (over the Easter holidays) on a Bill transforming the status of certain public sector employees.¹⁵ Another similar case concerned the plans to re-organise the research institute network of the Hungarian Academy of Sciences, when the institution received the draft with only a few hours to submit their opinion about it. A tell-tale example of how the government generally treats dialogue was the case of an online consultation on the national climate strategy in late 2019, which consisted of a very basic questionnaire published on the government's website without any promotion and with a short deadline. After a news portal found out about it, almost 200,000 people completed the survey in a few days. When asked about this, government officials effectively admitted that they were not interested in the results but had only conducted the survey because it was compulsory under EU law¹⁶. Also, unlike during the previous cycle of UPR, this time the government made no efforts to involve CSOs in the reporting – in fact, there is absolutely no mention of the third cycle on the relevant governmental website¹⁷

Participation is obstructed through other measures as well. E.g. the government often declares questionable measures and investments by decree to be of “national strategic importance,” thereby legally completely exempting them from public oversight or control – a recent example is that of contested industrial investment planned in Göd¹⁸, a small town near Budapest, which drew much popular protest. Another example was the creation of the Central European Press and Media Foundation (KESMA) in 2018, which merged 476 media outlets under one umbrella including, among others, all regional print daily papers and radio stations. The Competition Authority was

¹¹ See a flash report on this:

https://www.helsinki.hu/wp-content/uploads/HHC_RoL_flash_report_Hungary_12112020.pdf

¹² See

https://www.parlament.hu/web/guest/iromanyok-lekerdezese?p_p_id=hu_parlament cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8&p_p_lifecycle=1&p_p_state=normal&p_p_mode=view&hu_parlament cms_pair_portlet_PairProxy_INSTANCE_9xd2Wc9jP4z8_pairAction=%2Finternet%2Fcplsql%2Fogy_irom.irom_lekerd%3FP_IRALPNEV%3Dki%26P_TIP%3Dnull%26P_CKL%3D41%26P_PARAM%3DI%26P_BDAT_IG%3D2020.12.31%26P_FOTIP%3Dnull%26P_FOTIP%3DT%26P_BDAT_TOL%3D2020.01.01%26P_ATIP%3Dz&p_auth=QdIEIht

¹³ See here <https://2015-2019.kormany.hu/hu/dok?type=302&year=2020#!DocumentBrowse> and here:

https://kormany.hu/dokumentumtar?categories=2&publishDateGt=2020-01-01&publishDateLt=2020-12-31&limit_rows_on_page=8&limit_page=0

¹⁴ Act CXXXI of 2010 on Public Participation in the Preparation of Legislation, Article 11(1)

¹⁵ See:

<https://444.hu/2020/04/11/elvenne-a-kormany-a-kulturalis-dolgozok-kozalkalmazotti-statuszat-a-hosszu-hetveget-hagytak-a-velemenyezésre>

¹⁶

<https://444.hu/2019/11/25/hollik-a-klimavedelmi-konzultacio-nem-azert-van-hogy-a-kormany-megismerje-az-ember-ek-velemenyet>

¹⁷ <https://emberijogok.kormany.hu/magyarorszag-es-az-ensz-egyetem-es-idoszakos-emberi-jogi-felulvizsgalata>

¹⁸ Government decree 114/2016 (VI.1)

prevented from investigating the fusion by a governmental decree declaring the deal of “national strategic importance in the public interest.”¹⁹

Authorities also obstruct public access to information, a precondition of meaningful participation by regularly denying freedom of information requests²⁰ and disclosing data only after a court ruling requiring that they do so (this was e.g. how Hungarian Civil Liberties Union (HCLU) was able to obtain disaggregated data on the prevalence of hospital infections 2017), or by demanding excessive “cost recovery” (in some cases more than \$1,000 was sought for a few pages).

Earlier existing consultative bodies have been abolished or became formal, only “fronts” filled with loyal partners of the government, eliminating the possibility of criticism. An example is the Public Education Roundtable, which includes churches and the Academy of Arts as members, in addition to education professionals. At the same time, teachers’ unions boycotted this body, as it refused to constructively discuss their proposals and demands. Leading human Rights CSOs – including HCLU, Hungarian Helsinki Committee (HHC) and Amnesty International Hungary (AI-HU) – resigned from the government’s Human Rights Working Group in 2017 to protest against the harassment and vilification of independent CSOs (see below).²¹ Since then, while the working group formally still exists, it has been rarely convened. Also in 2019, the representative of Greenpeace-Hungary left the Plant Protection Committee claiming that he alone could not meaningfully argue for environmental considerations in the face of the overwhelming majority of the pesticide industry and the government’s representatives favouring them²². Vice versa, public officials are increasingly reluctant, or even effectively forbidden to participate at CSO events. Organizations report that previously friendly and good cooperation with state institutions are stopped without an explanation. In some cases, it was explained informally that state institutions found the cooperation risky to their relationship with the government despite finding the CSO’s programs and work useful. For example, the Police and the National Penitentiary Headquarters terminated or did not renew cooperation agreements with various CSOs that provided free-of-charge services, including social, psycho-social, legal assistance and counselling or conducted human rights monitoring activities in detention facilities.²³ The gaps left in service provision have not been filled by other actors.

In some other instances, public schools cancelled Amnesty Hungary’s human rights education workshops and events despite that earlier the same school had no issue whatsoever to host them. The cancellations came after a series of ongoing political attacks regarding the education programme coming directly from government figures or indirectly via pro-government media outlets. Teachers and headmasters reasoned that facilitating Amnesty’s education activities in their schools might bring unwanted attention from state officials who are in charge of the schools’ budget and appointment of the headmasters and could potentially lead to repercussions.

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<https://hclu.hu/en/articles/hclu-turns-to-court-to-prevent-unconstitutional-founding-of-pro-government-media-empire>

²⁰ In accordance with Act CXII. of 2011 on the Right to Information Self-determination and the Freedom of Information

²¹ <https://www.helsinki.hu/a-helsinki-bizottsag-kilepett-az-emberi-jogi-kerekasztalbol/>

²²

<https://www.greenpeace.org/hungary/sajtokozlemenye/4309/a-greenpeace-magyarorszagnal-betelt-a-pohar-kilep-a-no-venyvedelmi-bizottsagbol/>

²³ See e.g. <https://www.helsinki.hu/wp-content/uploads/termination-of-agreements-summary.pdf>. In more detail: <https://www.helsinki.hu/en/authorities-terminated-cooperation-agreements-with-the-hhc/>

In late 2016, the government left the Open Government Partnership (OGP) initiative (which it joined in 2012), when facing compliance procedures stemming partly from the lack of meaningful collaboration with civil society on matters related to open governance.²⁴

Petitions, open letters and similar tools are routinely ignored and left unanswered by the government, even if supported by as much as 100,000 people. In 2019, the new Commissioner for Fundamental Rights (the ombudsperson) was appointed by the President of Hungary without any consultation whatsoever despite CSOs' request²⁵. In November 2020, again without prior public consultation, the Committee on Justice Affairs of the Parliament proposed to dismantle the independent Equal Treatment Authority. Despite public opposition and protest by CSOs working on relevant areas, the governing majority went ahead with the plan without entering into any dialogue.²⁶ At the same time, anyone – including CSOs – publicly expressing opinions or criticism on policy matters is immediately labelled as “political,” “oppositional,” or even “foreign agents” (see below).

Under these circumstances CSOs' advocacy efforts rarely bring results: the few successful cases involved multi-year concentrated campaigning, broad coalitions and popular mobilization. A recent case in point was the 5-year long campaign to increase the home-care benefits the state pays persons raising severely disabled children or taking care of relatives at home – a pittance far below the minimum wage – coordinated by a group of mothers in the association *Lépjünk, hogy léphessenek!* with support from a broader coalition of various platforms. Using community organizing tactics, they collected more than 50,000 signatures on- and offline, bombarded the Ministry of Human Resources with petitions, and staged several protests in front of the parliament. Despite being accused in the pro-government press of being “Soros agents,” they finally reached their primary goal in fall 2018, securing a dramatic increase in benefits. However, other massive campaigns in issues where the political stakes were higher could not achieve similar successes.

Recommendations:

- *Appropriately implement and adhere to existing legislation providing for public participation and consultation in the legislative process*
- *Put a stop to practices circumventing participation*
- *Fulfil freedom of information requests submitted under relevant legislation in their entirety, in a timely and appropriate manner*
- *Re-organize and expand consultative bodies ensuring proportional and meaningful participation for civil society representatives*
- *Develop and implement a governmental strategy to enhance impartial, open and inclusive public consultation and dialogue*
- *Re-join the Open Government Partnership and actively undertake commitments, design and implement action plans within its framework*

3) Vilification & stigmatization of CSOs

Coordinated denigration and smear campaigns against independent CSOs led by key governmental figures has been a recurring feature with higher or lower intensity throughout the past decade. Especially organizations engaged in the areas of human rights, anti-corruption, refugees, gender and LGBTI have been named as “agents not serving the interest of the nation”, “mercenaries” or “members of the Soros network” (referring to philanthropist George Soros). Some examples from early 2017 include:

²⁴ The road to Hungary's withdrawal from OGP: https://k.blog.hu/2016/12/07/hungary_withdraws_from_ogp

²⁵ <https://www.helsinki.hu/en/selectionofombudsperson/>

²⁶ See e.g. the joint statement of CSOs:

https://www.helsinki.hu/wp-content/uploads/Equal-Treatment-Authority_Civilizacio-statement_26112020.pdf

- „*These organisations must be pushed back by all means, and I think cleared away.*” (Szilárd Németh deputy speaker of the FIDESZ parliamentary group, 10. January 2017.²⁷)
- „*Hungarian voters need to know if organisations using foreign funding want to exert influence in Hungary.*” (Lajos Kósa speaker of the FIDESZ parliamentary group, 17. February 2017.²⁸)
- „*And these organisations, they all unambiguously take position against the Hungarian government and the migration policy supported by the Hungarian people, then we cannot hesitate longer, and I said transparency must be enforced.*” (Viktor Orbán Prime Minister, 26. April 2017.²⁹)

In early 2020, the judgment in the Roma education segregation case in Gyöngyöspata was used by governing party politicians not only to fuel anti-Roma sentiments, but also to attack the human rights CSO that assisted plaintiffs in the lawsuit:

- On 15 January 2020, a Fidesz MP said at a press conference that local Roma had been “incited” by an organisation funded by George Soros, adding that “*because for money and power they are even capable of completely upsetting the life of a settlement and creating terrible tension*”.³⁰
- On 17 January 2020, in his weekly radio interview, the Prime Minister said: “*An unfortunate judicial verdict has been handed down, and if we look at who is behind it, it will be seen that the Soros network is behind it. I see this as a provocation.*”³¹

Another issue used for trying to discredit human rights defenders was the governing party launching a political campaign against compensations for prison overcrowding also in early 2020, aimed at discrediting (e.g. through the use of the term “prison business”) detainees launching compensation procedures, their legal counsels, and detainees’ rights advocates.³² On 15 May 2020, the Secretary of State of the Justice Ministry said in an interview: “*the prison business is the business of the pseudo-civil rights defenders and lawyers most of whom can be clearly linked to the political left and the Soros-organizations [...]. This [...] submission [by the HHC to the CoE Council of Ministers] was obviously written so that their master [i.e. George Soros] would stroke their little heads, like in the transit zone cases.*”³³

The government’s communication also clearly divides the civil sector into “good” and “bad” organizations – the former meaning those who limit themselves to traditional charitable and recreational roles, while the latter encompasses all that speak up, voice concerns and criticism (thereby also sending a message about what the government deems as appropriate activities and engagement for civil society).

The government’s think-tank Századvég Foundation even sustains an ‘NGO-radar’ publishing information on the alleged influence of the “Soros organizations” in Hungary, naming a dozen leading CSOs³⁴.

The government’s message is amplified by its media conglomerate composed of the public broadcaster and a huge array of outlets organized under the Central European Media and Press

²⁷ https://hvg.hu/itthon/20170110_Nemeth_Szilard_el_kell_takaritani_Sorosbirodalom_alcivil

²⁸ https://index.hu/belfold/2017/02/17/folytatodik_a_fidesz_civil_szervezetek_elleni_arnyekbokszolasa/

²⁹ https://index.hu/kulfold/eurologus/2017/04/26/a_lex_ceu-rol_kell_szamot_adnia_orbannak_brusszelben/

³⁰ <https://www.origo.hu/itthon/20200115-fidesz-gyongyospatai-romak-ugye-soroshalozat.html>

³¹ https://index.hu/belfold/2020/01/17/orban_engem_mar_nyolcszor_olt_meg_soros_halozata/

³² See e.g.: Csaba Győry, *Fighting Prison Overcrowding with Penal Populism – First Victim: the Rule of Law*. *New Hungarian Law* “Suspends” the Execution of Final Court Rulings, 12 March 2020,

<https://verfassungsblog.de/fighting-prison-overcrowding-with-penal-populism-first-victim-the-rule-of-law/>;

communication of 29 June 2020 by the HHC to the Committee of Ministers of the Council of Europe:

https://www.helsinki.hu/wp-content/uploads/HHC_Rule_9_Istvan_Gabor_Kovacs_and_Varga_2020_06_29.pdf.

³³ See:

<https://www.origo.hu/itthon/20200514-volner-a-bortonbiznisz-az-alcivilek-es-a-soroshoz-kotheto-ugyvedek-uzlete.html>.

³⁴

<https://regi.szazadveg.hu/hu/kutatasok/az-alapitvany-kutatasai/ngo-radar/ngo-radar-kozeppontban-a-soros-halozat-politikai-lobbiszervezetei>

Foundation (KESMA) since 2018³⁵. These regularly publish completely unfounded or misleading news about individual CSOs – most often HCLU, HHC³⁶ and Transparency International-Hungary. Civil College Foundation, a capacity building and training organization was picked out for sustaining a “secret” activist trainer camp in Kunbáony³⁷. Sometimes even seemingly “innocent” organizations, e.g. WWF-World Wide Fund for Nature or the mothers of disabled children (see above) can become similar targets if they happen to speak up on public matters. The attacked CSOs are rarely (or never) given the chance to present their views and their position in the same outlets, and can only defend themselves in courts. Several of them won numerous libel and slander cases against these media outlets and governmental spokespersons³⁸, obligating them to publicly retract their statements or apologize as well as to pay material compensation.

A case in point is the lawsuit the HHC launched against the government because in a so-called “national consultation” – a set of manipulative questionnaires distributed by the government to every Hungarian household – one of the questions damaged the CSO’s reputation. Point 5 of the questionnaire sent out in 2017 stated, among others, that the Helsinki Committee protects immigrants involved in illegal activities and thus supports illegality. In addition to acknowledging the infringement, the civil rights activists asked the court to oblige the government to express its apology in an official statement and pay damages. Eventually in November 2019, the Kúria ruled that the Hungarian Government’s 2017 national consultation questionnaire contained false allegations and damaged the HHC’s reputation.³⁹

In the same questionnaire, Amnesty International was portrayed “as another Soros-organisation” which is campaigning for the release of Ahmed H. a Syrian national who “attacked the police of Hungary protecting the border by throwing stones” and that “Amnesty requests Hungary to pay a compensation”. While AI was campaigning in the case of Ahmed H., the CSO’s point was that he was wrongfully charged with terrorism and the organisation never requested any compensation. Additionally, at the time of the publication of the “national consultation” Ahmed H. was not convicted.

While leading human rights CSOs are able to defend themselves in the face of such attacks, these have a marked chilling effect especially on the smaller, weaker organizations operating in rural contexts where the dependence on the local powers that be is much stronger than in urban centres. By now, many of these organizations have become reluctant to speak up, to advocate. Instead, they distance themselves from the targeted groups or anything that can be construed as “political”, and refuse to enter into cooperation or joint action⁴⁰.

Recommendations

- *Government officials must refrain from making vilifying, misleading or slanderous statements about CSOs; they should rather acknowledge the work they do for the public good*
- *Public and privately-owned media should report on CSOs and their activities in a balanced and impartial manner, providing space to all relevant views and opinions – this should be guaranteed by appropriate codes of conduct and guidance*

³⁵ See: <https://atlo.team/media2020/>

³⁶ See e.g. <https://www.helsinki.hu/pert-veszített-a-lokal-a-magyar-helsinki-bizottsággal-szemben/>

³⁷ https://hirtv.hu/ahirtvhirei_adattar/bejutottunk-a-soros-aktivistak-titkos-kikepzotaboraba-1399136

³⁸ See e.g. <https://budapestbeacon.com/hungarian-helsinki-committee-wins-defamation-lawsuit-fidesz/or-https://www.helsinki.hu/en/hungarian-helsinki-committee-wins-lawsuit-against-government-at-supreme-court/>

³⁹ For more details see:

<https://www.helsinki.hu/en/hungarian-helsinki-committee-wins-lawsuit-against-government-at-supreme-court/>

⁴⁰ See: https://okotars.hu/sites/default/files/summary_of_the_first_phase_of_mapping.pdf

- *The government should help CSOs to convey their message to the broad public e.g. through advertising space and dedicated programmes in public media, as well as financial support to CSO communication campaigns*

4) Harassment & attacks against CSOs

While the direct harassment of CSOs obstructing their everyday operation and/or attacks on their staff either by government agencies or private persons remains rare, several such cases occurred over the past years, sending warning signals to the broader civil sector. The UN Reprisals Report sadly features Hungary in all of its volumes since 2018.⁴¹

In 2017, Open Society Foundations launched two multi-year regional civic capacity and community building programs in Southwestern and North-eastern Hungary, coordinated by the Power of Humanity Foundation (Pécs) and the Association of Alternative Communities (Debrecen), respectively. Both organizations suffered smear campaigns in local and social media, whipped up by the local mayors of the governing party. In Pécs, the municipal assembly passed a resolution requesting the public not to provide space or cooperation to the Power of Humanity Foundation, and as a result they were denied the lease of offices in a municipally-owned building. The foundation challenged the resolution in court and won the case in 2019⁴². In Debrecen, a project supported from EU Structural Fund sources implemented by the Association of Alternative Communities was inspected by the program's managing authority, and while initially they only found smaller errors, a repeated inspection resulted in the cancellation of the grant contract, and the association was obligated to repay the total amount of 25 million HUF (app. \$83,330).

In the 8th district of Budapest, Aurora, another community centre that also houses a number of CSOs and provides space for events on topics ranging from housing to drug use to issues affecting the LGBTI community, has been the target of the local mayor for several years. He used various tools and tactics in an attempt to close the centre down from imposing limits on its opening hours through police raids of events to trying to buy the privately-owned building that the centre leases. In 2019, a group of right-wing extremists intruded an event held in the centre, and burned a rainbow flag, while the police stood passively by⁴³. Later, the Metropolitan Court found this passivity of the police unlawful.⁴⁴ Another LGBTI event, a film screening in Szeged was also disturbed by extremists representing the right extremist Our Homeland party⁴⁵.

In spring 2018, a pro-government weekly 'Figyelő' published lists of the staff (including clerical employees) of leading human rights and advocacy CSOs, identifying them as members and "mercenaries" of the "Soros network."⁴⁶ The article was challenged in court by HCLU and the HHC, which obligated the weekly to retract and pay compensation to the plaintiffs⁴⁷. In the same year, a Fidesz spokesperson visited the buildings where AI-HU, the HHC, and *Menedék* Association for Migrants were headquartered in Budapest, put up stickers reading "immigration supporting organizations," and held impromptu press conferences⁴⁸ smearing the above-mentioned

⁴¹ 2018: <https://undocs.org/A/HRC/39/41>, 2019: <https://undocs.org/en/A/HRC/42/30> 2020: <https://undocs.org/en/A/HRC/45/36>

⁴² <https://www.emberseg.hu/2019/05/22/pert-nyertunk-kozlemeny/>

⁴³ <https://www.helsinki.hu/a-rendorseg-elismerte-hibajat-az-aurora-homofob-megszallasanal/>

⁴⁴ <https://www.helsinki.hu/jogellenes-volt-a-rendorseg-tetlensege-a-homofob-tamadokkal-szemben-az-auroraban/>

⁴⁵

<https://444.hu/2019/03/31/szetbarmoltak-egy-roma-es-meleg-emberekrol-szolo-filmvetitest-a-mi-hazank-mozgalom-aktivistai>

⁴⁶ <https://www.szeretlekmagyarorszag.hu/kekhirek/figyelo-soros-lista-helsinki-bizottsag/>

⁴⁷ <https://magyarnarancs.hu/interaktiv/pert-vesztett-a-figyelo-a-soros-lista-miatt-119996>

⁴⁸ https://24.hu/belfold/2018/06/12/hollik_soros_amnesty/,

<https://tasz.hu/cikkek/nem-hazudhatnak-buntetlenul-a-civilekrol-a-kozmediaban>

organisations. Affected CSOs were not given a chance to react. (HCLU successfully challenged in court the public broadcaster's one-sided coverage of this action.)

Another, clearly politically motivated and disproportionate measure was seen in fall 2019, when the media authority failed to renew the frequency license of the longest-standing Hungarian community radio, Civil Radio⁴⁹, claiming breaches of relevant legislation, which turned out to be just smaller irregularities, such as not strictly adhering to the proscribed ratio between Hungarian and international music.

In November 2019, Népszava, a Hungarian news outlet reported⁵⁰ that MTVA, the Hungarian government-controlled news agency, in an internal communication earlier that month ordered its staff not to report on statements from Amnesty International and Human Rights Watch. Since then AI's press statements and communications have not been covered by the state media, in sharp contrast with their previous practice. AI-HU turned to the Media Council asking them to call upon the news agency to stop this unlawful practice and request them to pay a compensation. The Media Council rejected Amnesty Hungary's complaint stating that "nobody has the right to request media coverage by the news agency".

Recommendations:

- *The government (both national and local) should refrain from using authorities in politically motivated administrative procedures to intimidate or silence CSOs*
- *Authorities, especially the police should step up and defend legitimate civil society activities and actors from attacks by extremists and other malevolent perpetrators*

5) Legal restrictions

The general legal framework of civil society is largely consistent with international standards. The Civil Code⁵¹ regulates the key legal forms of organizations – associations and foundations – while the Nonprofit Act⁵² provides for the freedom of assembly, public benefit status and rules of operation. Under these laws, anyone can register a CSO at the administrative courts (by now typically electronically) and the organizations can freely operate. However, current regulation and oversight is placing as unnecessary administrative burdens on smaller organisations, while the rigorous obligations larger organisations have to meet do not necessarily help citizens better understand their operations. This is especially the case for organisations with public benefit status and those receiving public funding. Such organisations must annually and publicly report separately on their accounts and activities, on the collection of donations and the use of the 1% personal income tax assignments. Already in 2015, Hungarian civil society organisations have proposed changes to the system that would better serve transparency and accessibility, but these were never discussed by the government.⁵³ (A growing number of CSOs, in addition to meeting all bureaucratic reporting requirements, also provide information on their finances in a more accessible manner to foster transparency and public trust.)

In 2017 and 2018, however, three separate pieces of legislation were passed both restricting and severely stigmatizing certain CSOs:

⁴⁹ https://index.hu/kultur/2019/12/21/civil_radio_nem_sugaroz_elnemul_vicsek_ferenc_mediatanacs/

⁵⁰ https://nepszava.hu/3058564_ujsgirok-rovid-porazon--tiltott-temak-az-mti-ben

⁵¹ Act V. of 2013, §3:63-87, §3:378-404

⁵² Act CLXXV of 2011. on the Right to Association, Public Benefit Status and the Operation of and Support to Civic Organizations

⁵³ YSee <https://civilizacio.net/tudastar/utmutato>

1) Act on the Transparency of Organizations Supported from Abroad, which entered into force in late June 2017⁵⁴. This law, styled after the Russian “foreign agent” law, prescribes that CSOs receiving more than twice the threshold for compulsory examination of clients of financial institutions set out in the Act on the prevention of money laundering and financing of terrorism⁵⁵ from non-domestic sources (whether public or private) on an annual basis must register with the courts as “foreign funded” and use this label on their websites and all publications. At the time of the adoption of the law, this threshold was 3,6 million HUF (app. \$12,000); at the time of the submission of this report, it stands at 4,5 million HUF (app. \$15,000). Donors giving more than 500,000 HUF (\$1700) must be individually listed in the reports. Non-compliant organizations are subject to sanctions, which – after several steps – may lead to fines or even the organization’s dissolution. Faith based and sport associations, as well as party and public foundations are exempted.

The law has already received much international criticism during its preparatory phase from, among others, the Council of Europe, OSCE and UN OHCHR⁵⁶. Soon after it was passed, the European Commission (EC) launched an infringement procedure against Hungary, and dissatisfied with the result, turned to the Court of Justice of the European Union (CJEU) which issued its ruling on 18 June 2020⁵⁷. This found that the Act, by introducing discriminatory and unjustified restrictions was in breach of EU law on several counts, including restrictions on the freedom of assembly, the right to privacy, and the free movement of capital in the EU. Despite this judgement, the government has not yet taken any step to repeal or change the act up to this day. Instead, beginning in September 2020, Tempus Public Foundation, the national agency managing the EU’s Erasmus+ program in Hungary, started requesting its CSO applicants and selected grantees to submit declarations stating that they conform with the provisions of the “foreign-funded” legislation as a compulsory precondition of contracting. Several affected organizations publicly protested this measure, calling the attention of the EC as well⁵⁸. As a result of Hungary’s non-compliance with the judgment, the EC sent a letter of formal notice to Hungary on 18 February 2021 to implement the judgment, leaving two months to respond. Should Hungary fail to provide a satisfactory answer, the Commission could request the CJEU to impose fines on Hungary.⁵⁹

2) On World Refugee Day in 2018, the governing majority adopted a legislative package dubbed “Stop Soros” by the government that included amendments to the Fundamental Law, the Criminal Code and the Asylum Act, among others.⁶⁰ The changes targeted individuals and organisations providing assistance to asylum-seekers, and the intimidating amendments to the Criminal Code threaten with punishment up to one year in prison those that provide legal assistance to asylum-seekers staying in Hungary unlawfully. The absurd language of the law is vague and fails to adequately specify what actions merit criminal responsibility, making it a perfect tool to intimidate and paralyze CSOs. The EC launched an infringement procedure against Hungary over this

⁵⁴ Act LXXVI of 2017. See an unofficial English translation:

<https://www.helsinki.hu/wp-content/uploads/LexNGO-adopted-text-unofficial-ENG-14June2017.pdf>

⁵⁵ Section 6 (1b) of Act LIII of 2007.

⁵⁶ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2017\)002-c](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2017)002-c),

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21617&LangID=E>

⁵⁷

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=B7D921F0591F857145D5F3293B1E107E?text=&docid=227569&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=3381334>

⁵⁸

<https://www.emberseg.hu/2021/01/18/vizsgalatot-inditott-az-europai-bizottsag-az-emberseg-erejevel-alapitvany-level-et-kovetoen/>

⁵⁹ See the statement on this on the website of the European Commission:

https://ec.europa.eu/commission/presscorner/detail/en/inf_21_441

⁶⁰ See a summary of the package and an unofficial English translation here: <https://www.helsinki.hu/en/lexngo-2018/>

legislation as well which is currently pending at the CJEU. The Advocate General of the Court delivered his opinion in this case on 25 February 2021, finding, among others, that the criminalisation of assistance provided to asylum-seekers violates EU law.⁶¹ A judgment is expected in the first half of 2021.

3) A special tax on immigration⁶² was introduced as a muzzle law on 25 July 2018.⁶³ The special, 25% tax must be paid after financial support provided for activities that “directly or indirectly aimed at promoting immigration”. This is effectively a tax on freedom of speech and freedom of association; the Venice Commission of the Council of Europe found it not to meet the criteria of “legality” under Articles 19 and 22 of the ICCPR and the European Convention on Human Rights.⁶⁴ Neither the Stop Soros nor the immigration tax has been implemented in practice up to this day, as not even the tax authority has been able to interpret how and to whom they should be applied.

Beginning in spring 2020, using the pretext of the coronavirus pandemic, the government also introduced legislation curbing certain rights that are necessary for an active participation in public life. Using its authorisation to issue decrees that derogate from acts of Parliament, the Government curbed, among others, the freedom of assembly and of information. During the lockdown periods, a total ban on assemblies has been imposed, making any protest effectively illegal. Human rights organizations criticised this blanket ban as disproportionate.⁶⁵ (Especially as certain larger gatherings were permissible, e.g. for religious purposes.) Besides, the deadlines for public agencies to respond to freedom of information requests were extended from 15 to 45-five days, rendering most such efforts obsolete in the fast-changing situation.⁶⁶

Recommendations:

- *The Parliament should repeal the Act on the Transparency of Organizations Supported from Abroad, Section 353/A of the Criminal Code, and the 25% special tax on immigration*
- *The government should refrain from introducing any further legislation that limits the freedom of association or assembly in any way*
- *In a constructive cooperation with civil society, the government should review existing legislation governing the operation of CSOs and introduce changes to further enable the free exercise of the right to association and the operation of such organizations without undue interference*

⁶¹ See the statement on the CJEU’s website:

<https://curia.europa.eu/jcms/upload/docs/application/pdf/2021-02/cp210027en.pdf>

⁶² See a background note on this:

https://www.helsinki.hu/wp-content/uploads/HHC_Hungary_emergency_measures_overview_24022021.pdf

⁶³ See an unofficial English translation of the text here:

<https://www.helsinki.hu/wp-content/uploads/Special-immigration-tax-as-adopted-20-July-2018.pdf>

⁶⁴ See the Venice Commission’s opinion:

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2018\)035-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2018)035-e)

⁶⁵ See e.g. the submission of the Hungarian Helsinki Committee and the Hungarian Civil Liberties Union to the Commissioner for Fundamental Rights on this issue of October 2020:

<https://www.helsinki.hu/gyulekezesi-jog-ombudsmanhoz-fordulnak-a-jogvedok/>

⁶⁶ Section 1 of Government decree no. 521/2020. (XI.25.)